

LAWS
OF
MISSOURI
RELATING TO
MINES AND MINING

1909.



Compiled by
MINE INSPECTION DEPARTMENT,
Jefferson City, Mo.

622.007

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INSPECTORS

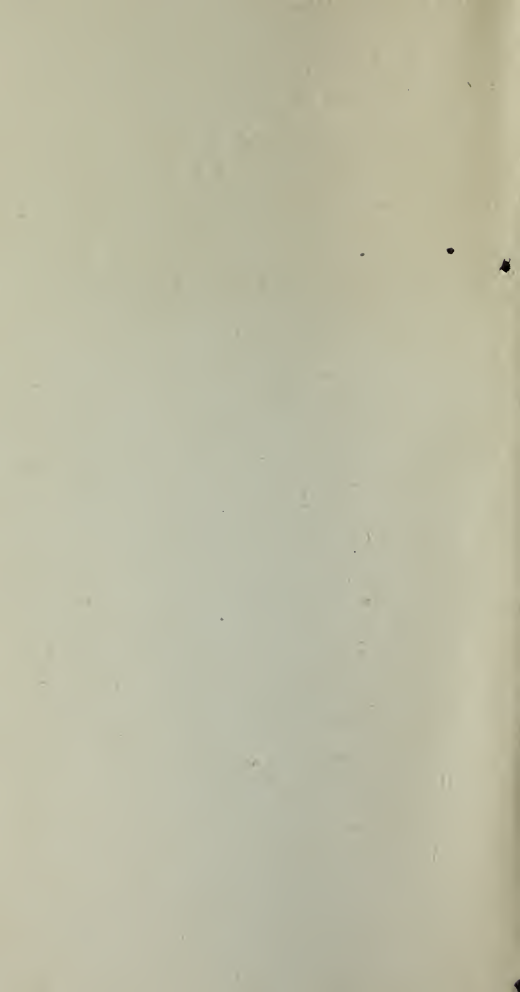
LEAD AND ZINC MINES.

Chas. P. Wallace.....Cartersville.
W. S. Brown.....Joplin.
I. J. Pirtle.....Fredericktown.

COAL MINES.

Robt. Richards.....Bevier.
Michael Gavin.....Lexington.

Geo. Bartholomaeus, Secretary,
BUREAU OF MINES AND MINE INSPECTION,
Jefferson, City, Mo.



622.007

LAWS RELATING TO MINES AND MINING.

MINING, HOW CONDUCTED, RIGHTS OF
MINERS, MINE OWNERS AND OTHERS.

ARTICLE I.

Sec. 8408. Rights of miners and owners of mineral lands—condition of permits.—When any person owning real estate in this state, or any person ~~having~~ a leasehold interest in such real estate for mining purposes by lease from the owner thereof, duly acknowledged and recorded in the county wherein the land lies, shall permit any person or persons, other than their servants, agents or employes, to enter and dig or mine thereon for lead ore or other minerals, with the consent of such owner or owners or lessee, he or they shall keep a printed statement of the terms, conditions and requirements upon which such lands may be mined or prospected, and the time during which the right to mine or prospect thereunder shall continue, posted or hung up in a conspicuous place, in plain, legible characters,

in the principal office or place of business of such person or company in the county in which said lands are situated, or in a county contiguous thereto, and shall deliver to any person mining or prospecting, or about to mine or prospect on said lands, and requesting it, a printed copy of such statement; all persons digging or mining on said lands, after the posting up of such statement, shall be deemed to have agreed to and accepted the terms thereof, and shall, together with such owner or lessee, be bound thereby, and upon failure or refusal to comply with the terms, conditions and requirements of such statement, he or they shall forfeit all right thereunder, and the owner or lessee, as aforesaid, of such lands, may re-enter thereon and take possession of the same, nor shall the receipt of any ore or mineral by any such owner or lessee, after any such forfeiture has been incurred, be deemed or taken as a waiver of such forfeiture. (R. S. 1899, § 8766.)

Sec. 8409. **Forfeiture.**—Whenever any such owner or lessee of real estate shall permit any person or persons, other than their servants, agents or employes, to enter and dig for lead ore or other minerals on such real estate, with his consent, but without such owner or lessee complying with the provisions of section 8408, and such person or persons having so entered upon said lands by the permission or consent of such

owner or lessee as aforesaid, and having in good faith dug or opened any shaft, mine, quarry, prospect or deposit of mineral, or extended or opened from any shaft or mine any room, drift, entry or other excavation, he or they shall have the exclusive right as against such owner or lessee giving such permit or consent, and against any person claiming by, through or under such owner or lessee, to continue to work, mine and dig such shaft, mine prospect or deposit of mineral so dug or opened by him or them as aforesaid, in said real estate, with a right of way over such lands for the purpose of such mining, for the term of three years from the date of the giving of such consent or permit: *Provided, however,* that if such person or persons, in each case so mining as aforesaid, shall fail or neglect to work or cause to be worked, such shaft, mine, quarry, prospect or deposit of mineral for ten days, not including Sundays, in any one calendar month, after commencing said work, he or they shall forfeit all rights to work, mine or hold the same as against such owner or lessee, unless such failure or neglect was caused by unavoidable circumstances, or by the act of such owner or lessee or his agent, or unless such owner or lessee consent thereto: *Provided, further,* that such person or persons, so mining as aforesaid, shall pay to the owner or lessee of said lands giving such permit or consent the

royalty for mining thereon, at least once every month, if demanded by such owner or lessee, by delivering the same to him at or near the mouth or opening of such mine, shaft or quarry, or at the nearest usual place of business of such owner or lessee, or at any other place that may be agreed upon by such miner and owner or lessee; which said royalty, unless otherwise agreed upon by them, shall be the same in kind and proportionate amount as is paid by others mining the same kind of ore or mineral on said lands to such owner or lessee, or the value of such royalty in cash; and if there be no other person mining on said lands on terms prescribed by such owner or lessee, then he or they shall pay to such owner or lessee the same rate and kind of royalty on lead ore or minerals taken out by him or them as is paid by miners on lands nearest thereto belonging to other persons, or the value of such royalty in cash. Such owner or lessee of any real estate shall have a lien on all minerals taken or dug therefrom for the royalty due thereon until the same is paid; and if any such person or persons so mining shall refuse or fail to pay such royalty to such owner or lessee, or his agent, when demanded as aforesaid, he or they shall thereby forfeit the right to work such mine, shaft, quarry, prospect or deposit of mineral, and the said owner or lessee may thereupon enter and take possession of the same. (R. S. 1899, § 8767.)

Sec. 8410. Tender of payment.—

Any such person or persons who, by the permission or consent of the owner or lessee of any real estate, and having the right to mine thereon, and having entered and dug or mined thereon any lead ore or other mineral, shall have the right to the exclusive possession of such ore or mineral, except the royalty thereon, which shall be paid as hereinbefore provided, until he or they shall be paid or tendered by such owner or lessee of such real estate the then highest market price in cash paid by such owner or lessee for the same kind of ore or mineral dug or mined on said lands, and if no other such ores or minerals are at the time being dug or mined on said lands and sold to such owner or lessee, then the highest price paid for such ore or mineral dug on lands nearest thereto shall be paid or tendered by such owner or lessee in such case, and upon such payment or tender, the absolute right to the possession of such lead ore or other mineral so dug out and mined under the provisions of the next preceding section, and for which such payment or tender shall have been made, shall vest in such owner or lessee. (R. S. 1899, § 8768.)

Sec. 8411. Notice to owner or lessee.—If any person or persons having dug or mined lead ore or other mineral, and having the same in his or their possession, and having offered to de-

liver such mineral according to contract, or paid or tendered the royalty, if any, due thereon, or the value of such royalty in cash, to such owner or lessee of said real estate, or to his agent, shall serve or cause to be served a notice in writing upon such owner or lessee or his agent, by delivering to him a copy thereof, or by leaving a copy thereof at the usual place of abode of such owner, lessee or agent, with some member of the family over the age of fifteen years, stating in such notice the amount of lead ore or other mineral he or they have ready for delivery, and requiring such owner, lessee or agent to receive and pay for the same, the said owner or lessee shall, within five days after the service of such notice, receive and pay for such lead ore or other mineral which the said person or persons digging or mining the same may deliver to him, not exceeding the amount named in the notice; and in such case, if such owner or lessee fail or refuse within the time aforesaid to pay for such lead ore or mineral delivered or offered to be delivered to him as aforesaid at the said price, then in that event the said person or persons who dug and mined the same shall thereupon acquire an absolute title to such lead ore or mineral, and may thereupon dispose of the same to any person or in any manner he or they may choose. (R. S. 1899, § 8769.)

Sec. 8412. **Sale of ore.**—All lead ore

or other mineral, dug or mined in or upon the lands of any person in this state, shall be deemed and held to be the absolute property of the owner or lessee of such lands, except in cases it is modified, changed or transferred by express contract, and any person who shall unlawfully sell or convert to his own use, or remove or dispose of, or in any manner make away with or conceal any such ore or mineral, so as to deprive the owner thereof of the same, shall be deemed guilty of grand or petit larceny, according to the value of such ore or mineral. (R. S. 1899, § 8770.)

Sec. 8413. Injunction or restraining orders—notice of application to dissolve.

No injunction or restraining order shall be granted by any court or by any judge thereof to enjoin or restrain the working of any mine or mines, or in any manner to interfere with the same, except upon notice first being given to the person working or operating said mine or mines, and sought to be enjoined or restrained, which notice shall be served by delivering to such person a copy thereof, or by leaving a copy thereof at his usual place of abode with a member of the family over the age of fifteen years, at least five days before the day set for the hearing of the application for the injunction; and the court or judge granting such injunction or restraining order shall have the power, upon good cause being shown, to dis-

solve, vacate or modify any such injunction or restraining order at any time after the same shall have been granted, whether in term time or vacation: *Provided*, that the party applying to such court or judge to dissolve, vacate or modify any such injunction or restraining order shall give due notice to the opposite party of such intended application. (R. S. 1899, § 8771.)

Sec. 8414. **Affidavit of course of drift and order to be made.**—When any owner, tenant or sub-tenant of a lot or lots or tract of land, shall file with any justice of the peace within the county in which said lot or lots or tract of land may be situated his or her affidavit, or the affidavit of any other creditable person for them, stating that from knowledge, information or belief, the party or parties owning, controlling or working the adjoining lot or lots or tract of land, and upon which said party or parties are sinking shafts, mining, excavating and running drifts, and that said drifts in which said parties are digging, mining and excavating mineral ore or veins of coal extend beyond the lines and boundaries of said lot or lots or tract of land, owned, controlled or worked by them, and have entered in and upon the premises of the party or parties making said affidavit, or for whom said affidavit is made, the justice of the peace, after first being tendered his lawful fees, shall issue his written

order and deliver or cause the same to be delivered to the county surveyor or his deputy, commanding him, after his reasonable fees have been tendered, to proceed without delay to survey said drift by entering any and all shafts upon said lot or lots or tract of land that he (the surveyor) may see fit, for the purpose of ascertaining the course and distance of said drift or drifts, and to locate the same upon the surface. (R. S. 1899, § 8772.)

Sec. 8415. **Order to be read.**—The surveyor shall, before entering upon said duty, read said order to the party or parties owning, controlling or working any shaft or shafts on said lot or lots or tract of land. (R. S. 1899, § 8773.)

Sec. 8416. **Refusal to obey order a misdemeanor.**—If said party or parties owning, controlling or working said shaft or shafts on said lot or lots or tract of land shall refuse, hinder or prevent said county surveyor or his deputy and his assistant from entering said shaft or shafts or drifts, to make the survey so ordered by the justice of the peace, and every person so offending shall, on conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment in the county jail for a term of not exceeding one year, or by a fine not exceeding three hundred dollars, or by both said fine and imprisonment. (R. S. 1899, § 8774.)

Sec. 8417. **Owner or lessee shall drain mine, etc.**—When any person owning any real estate in this state, or any person or persons having a leasehold therein for the purpose of mining for lead or zinc ore thereon by lease from such owner, shall open such real estate for mining purposes, and shall permit any person or persons other than their agents, servants or employes to enter and dig or mine for lead or zinc ores thereon, and shall make any rule or contract whereby any pump-rent or royalty is reserved unto said land owner or lessee for the drainage of the land so mined, and shall fail or refuse to drain any such land or mining lot to the full depth to which the laborers are working or seeking to work, but prevented by water, then and in such event, such owner or lessee thereof shall not be entitled to collect or retain any pump-rent or royalty so reserved as aforesaid for any ores taken from said mine or lot, below the depth of the water level in said mine or lot, so long as said owner or lessee shall fail or refuse to drain said mine, nor shall such land owner or lessee be entitled to forfeit any right to hold and mine said lot so long as work is prevented therein by reason of water accumulated therein, on account of any failure to drain said mine by such land owner or lessee, any rule, contract or agreement to the con-

trary notwithstanding. (R. S. 1899, § 8775.)

Sec. 8418. Scrapping for ore prohibited, etc.—penalty.— It shall be unlawful for any person to take or in any manner receive or obtain any lead or zinc ore by means of gleaning or culling, commonly called “scrapping,” without first having obtained the written consent of the person having possession and control of the mine from which said ores are to be taken; and it shall be unlawful for any person or company of persons to purchase, or in any manner to receive any lead or zinc ore which may have been stolen or taken by means of culling or gleaning, commonly called “scrapping,” without such written consent as aforesaid, knowing that said ores have been so stolen or taken without written consent, as herein provided. Any person violating the provisions of this section, on conviction, shall be punished by fine of not more than one hundred dollars, or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment, and the inadequacy of the price paid for such ore, the quantity purchased or received, and the fact that the person from whom such ores may have been purchased or received is not regularly engaged in running or operating mines for such ores, may be shown, and shall be received as *prima facie* evidence of guilty knowledge of the person so pur-

chasing or receiving such ores: *Provided, however*, that nothing herein contained shall be so construed as to prevent any person from gleaning, culling or scrapping for ores about his own mine, nor to prevent any person from purchasing such ores when the same have been obtained in such manner by the owner or operator of any such mine. (R. S. 1899, § 8776.)

Sec. 8419. Indemnity bond required to mine in certain cities, etc.—violation a misdemeanor—penalty.—No person, company or corporation shall hereafter sink a shaft, mine, tunnel, excavate or drift for coal, or take out any coal of any kind within the corporate limits or designated boundaries of any city, town or village in this state containing one thousand inhabitants or more, without having first applied and filed, and have approved, an indemnity bond as hereinafter provided for; and any person or persons violating the provisions of this section, and any member or stockholder or officer of any company or corporation who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine of not less than five hundred dollars, or imprisonment in the county jail for not less than six months, or by both such fine and imprisonment. (R. S. 1899, § 8777.)

Sec. 8420. Notice of intention to mine—publication required.—Every person,

company or corporation desiring to carry on any of the mining operations provided for in the preceding section shall give at least thirty days' notice of such intention by notice printed and published in some newspaper printed in such town, city or village wherein such mining operations are proposed to be carried on, or if no newspaper be printed in such city, town or village, then in some newspaper printed in said county, or if no newspaper be printed in such county, then by written or printed handbills posted up in six public places in the city, town or village wherein such mining operations are proposed to be carried on. Such notice shall contain an accurate description of the locality where such mining operations are to be carried on, giving the number of lot and block, and shall also state the nature of such mining operations, and name some day of the term of the next circuit court in said county, thereafter to be holden, when such person, company or corporation will offer for filing and approval the indemnity bond hereinafter provided for. (R. S. 1899, § 8778.)

Sec. 8421. Permit from mayor and council—petition to circuit court.—On the day mentioned in such notice, the persons, company or corporation proposing to carry on such mining operations must have a permit, in writing, signed by the mayor and a majority of the city council of the town, city or vil-

lage in which such mining is proposed, before a permit shall be granted by a circuit court, and shall present their petition to said circuit court, setting out the locality of the proposed mines and the nature and extent of the proposed mining operations, and shall also file with such petition the title papers of such person or company or corporation to the lands on which such mining operations are proposed to be carried on, showing either the fee simple title of such land in such company, or the right to mine beneath or in such land, and shall also contain the names of all persons to be offered as security upon the mining bond of such persons, company or corporation, and shall pray the court to fix and approve the mining bond of such persons or corporation. (R. S. 1899, § 8779, amended, Laws 1909, p. 695.)

Sec. 8422. Testimony on application—bond, etc.—time granted.—The court may, upon such application, hear testimony upon all the matters involved in such application, including testimony upon the solvency and responsibility of the sureties offered, and may hear testimony from any parties interested in the lots and lands in the neighborhood of such proposed mining operations, and if the court is satisfied that the proposers own the land or mining privileges under the land described in their petition, the court shall fix the amount of the bond to be given by such proposers, such

bond to be in no case for less than one thousand dollars; and upon the giving and approval of such bond so fixed by the court, the court shall enter its order authorizing the mining operations specified in said petition, and upon the localities therein named, and not elsewhere, for the space of two years, unless in the meanwhile revoked. (R. S. 1899, § 8780.)

Sec. 8423. **Bond required.**—Such bond shall be signed by the proposers, and by not less than two sureties, to be approved by said court, residents of the county wherein such mining is to be carried on, and shall be made payable to the state of Missouri, and conditioned that the principal in said bond shall carry on the mining operations proposed in the petition in a careful manner, and the said parties shall not mine, dig, excavate nor take coal nor earth from or under any land or lots than that described in the said bond, and shall pay all damages that may be sustained by any and all persons by reason of the violation of any of the conditions of said bond, and any and all charges, fines and penalties that may be levied, assessed against or imposed upon the said proposers, their agents, servants, stockholders, officers or employes, by reason of any violation of the conditions of said bond or any of the provisions of sections 8419 to 8427, inclusive. (R. S. 1899, § 8781.)

Sec. 8424. **Written permission of property owner—violation, misdemeanor—penalty, fines, etc.**—Any person or persons who shall in person or by their servant, agent or employe, dig, excavate, mine, tunnel or drift upon or under the lands or lots of another, within the incorporate limits or designated boundaries of any city, town or village in this state, and every officer and stockholder that shall either authorize or permit its servants, agents or employes to dig, excavate, mine, tunnel or drift upon or under the lands or lots of another within such limits or boundaries of such city, town or village, without the written permission of the owner or owners of such land or lots, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction, for every such offense, by fine of not less than five hundred dollars, with costs, which fine and costs, if not paid within five days after conviction, may be sued for and recovered against the parties and sureties on the mining bond of such persons, company or corporation liable for such acts, in a suit upon such bond, in the name of the state of Missouri, to the use of the county in which such offense is committed; such fine, when collected, shall be paid, one-half to the owner of the property injured by such offense and the other half into the school fund of such county; but no such conviction shall be a bar to the owner of such prop-

erty prosecuting a suit on said bond to his own use for the damages sustained by any such offense. Every such conviction, whether appealed from or not, shall work a forfeiture of the authority to mine granted such person, company or corporation liable, and they shall not proceed further with the operations, except by making application and giving a new bond as in the first instance. (R. S. 1899, § 8782.)

Sec. 8425. Costs attending notice.—The costs attending the giving notice, making application and receiving mining privileges shall all be paid by the person, company or corporation making the same, and no such privilege shall take effect until all such costs be paid. (R. S. 1899, § 8783.)

Sec. 8426. Diagram of mines, etc., to be filed in court.—At each term of the circuit court, during the continuance of any mining license, every person, company or corporation carrying on such mining operations shall, at their own expense, cause to be made by the county surveyor of the county where such mines are located, and filed with the court, under oath of such surveyor, a complete and true diagram of such mines, showing with reference to the boundaries of such mines, and the lots and lands of neighboring owners, the extent of such mines, their drifts, tunnels and excavations, giving the length and breadth of each drift, bank and tunnel, so as to

fully inform the court and parties in interest of the extent and character of such mining operations. Such plats and diagrams shall remain on file with the clerk of such court, and shall not be removed by any one from the files of such court. Any failure to file the diagram and plat herein provided for, or to make such diagram show all the particulars herein provided for, shall work a forfeiture of the mining privileges of such person, company or corporation, which forfeiture the court shall, on the motion of any party in interest, declare on three days' notice to the party holding such license or privilege. (R. S. 1899, § 8784.)

Sec. 8427. Application of certain sections to mining companies.—In no case shall the eight preceding sections of this article be so construed as to apply to persons, companies or corporations engaged in mining for lead, zinc or other ores or minerals, except coal. (R. S. 1899, § 8785.)

Sec. 8428. Mining under public highways and railroads prohibited.—No person or persons, firm or association of persons, company or corporation shall, within this state, mine or excavate beneath the surface of any public highway or railroad right of way, in such manner as to cause the surface of the ground over which such public highway or railroad track is constructed to cave in. (Laws 1909, p. 436.)

Sec. 8429. **Penalty for violation.**—Any person, firm, company, association or corporation, violating the provisions of the preceding section, and any officer, agent or receiver of any firm, company, association or corporation, or any member of the same, or any individual, found guilty of a violation thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not to exceed one year, or suffer both penalties. (Laws 1909, p. 436.)

Sec. 8430. **Screening coal before weighing, prohibited.**—It shall be unlawful for any mine owner, lessee or operator of coal mines in this state, employing miners at bushel or ton rates, or other quantity, to pass the output of coal mined by said miners over any screen or any other device which shall take any part from the value thereof before the same shall have been weighed and duly credited to the employe sending the same to the surface, and accounted for at the legal rate of weights as fixed by the laws of Missouri; and no employe within the meaning of this section shall be deemed to have waived any right accruing to him under this section by any contract he may make contrary to the provisions thereof. And any provision, contract or agreement between mine owners or operators thereof, and the miners employed therein, whereby the provisions of this section are waived,

modified or annulled, shall be void and of no effect, and the coal sent to the surface shall be accepted or rejected; and if accepted, shall be weighed in accordance with the provisions of this section, and right of action shall not be invalidated by reason of any contract or agreement; and any owner, agent or operator of any coal mine in this state, who shall knowingly violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars for each offense, or by imprisonment in the county jail for a period of not less than sixty days nor more than six months, or by both such fine and imprisonment; proceedings to be instituted in any court having competent jurisdiction. (R. S. 1899, § 8786.)

Sec. 843I. Weighman shall take oath, etc., penalty.—The weighman employed at any mine shall subscribe an oath or affirmation before a justice of the peace, or other officer authorized to administer oaths, to do justice between employer and employe, and to truly and correctly weigh the output of coal from the mines as herein provided. The miners employed by or engaged in working for any mine-owner, operator or lessee of any mine in this state shall have the privilege, if they desire, of employing at their own expense a check weighman,

who shall have like equal rights, powers and privileges in the weighing of coal as the regular weighman, and be subject to the same oath and penalties as the regular weighman. Said oath or affirmation shall be kept conspicuously posted in the weigh-office, and any weigher of coal or person so employed, who shall knowingly violate any of the provisions of this article, or any owner, operator or agent of any coal mine in this state who shall forbid or hinder miners employing or using a check-weighman as herein provided, or who shall prevent or willfully obstruct any such check-weighman in the discharge of his duty, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, or by imprisonment in the county jail for a period not less than thirty days nor more than ninety days, or by both such fine and imprisonment, proceedings to be instituted in any court having competent jurisdiction. Whenever the coal mine inspector shall be satisfied that the provisions of this section have been willfully violated, it shall be his duty to forthwith inform the prosecuting attorney of any such violation, together with all the facts in his knowledge, and the prosecuting attorney shall thereupon investigate the charge so preferred, and if he be satisfied that the provisions of this

section have been so violated, it shall be his duty to prosecute the person or persons guilty thereof. (R. S. 1899, § 8787.)

Sec. 8432. Penalty for using false scales.—Every owner, agent or operator of any coal mine in the state, employing miners at bushel or ton rates, shall provide at such mine or mines accurate and suitable scales of standard manufacture upon which shall be weighed all coal coming out of such mine or mines; said scale or scales to be located at a reasonable distance from the point where the coal is delivered to the surface opening of the mine or mines, and in no case shall said scale or scales be located at a greater distance from said surface opening of the mine or mines than one hundred feet. Any owner, agent, operator, person, or persons having or using any scales or scale for the purpose of weighing the product of the miners' labor, and so arranges or constructs said scale or scales, or by any contrivance therewith connected causes the fraudulent weighing of such coal or said product, or who shall knowingly resort to, permit or employ any person or means whatsoever, by reason of which said product of the mine is not correctly weighed and reported in accordance with the true weight and the provisions of this article, shall be deemed guilty of a misdemeanor, and shall, upon conviction for each and every offense, be punished by a fine of not less than two hundred

dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a period not to exceed ninety days, or by both such fine and imprisonment; proceedings to be instituted in any court of competent jurisdiction. (R. S. 1899, § 8788.)

Sec. 8433. **Shall apply to loaders in certain mines.**—The manner of weighing, as hereinbefore provided for, shall apply to the class of workers in mines known as loaders, engaged in mines wherein the mining is done by machinery, whenever the workmen are under contract to load coal by the bushel, ton, or any quantity the settlement of which is had by weight. (R. S. 1899, § 8789.)

Sec. 8434. **Inspector to test scales.**—The coal mine inspector of this state shall be *ex officio* inspector of weights, measures and scales used at coal mines, and he is hereby empowered and it shall be his duty to test the scales used to weigh coal mined in the mines of this state at least every six months, to ascertain whether or not such scales correctly measure the weight of such coal, and if defects or irregularities are found, such scales which prevent correct weights and measurements the inspector shall call the attention of the mine owner, agent or operator to said defects and direct that the same be at once properly adjusted and corrected. If the owner, agent or operator of any coal mine in this state, shall refuse to

allow such inspector to properly test the scales used at such mine or mines, or shall fail or refuse to put such scales in proper adjustment and condition, so that the same shall correctly weigh the coal mined after being notified by said inspector so to do, such owner, agent or operator shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding five hundred dollars, or be confined in the county jail not exceeding six months, or both, in the discretion of the court, and it shall be the duty of the prosecuting attorneys in the respective counties to prosecute any person, firm or corporation violating the provisions of this section the same as in other misdemeanor cases. (R. S. 1899, § 8790.)

Sec. 8435. **Wages to be paid semi-monthly—penalty.**—All persons or corporations engaged in or operating any mines, stone or granite quarries in this state shall pay their employes once in every fifteen days in lawful money of the United States, and at no pay day shall there be withheld any of the earnings due any such employe: *Provided*, persons or corporations operating coal mines may withhold not to exceed five days of the earnings of employes. Any such operator or employer failing or refusing to pay his employes, their agents or assigns or anyone duly authorized to collect such wages as in this section provided, shall become immediately lia-

ble to such employe, his agent, assigns or anyone authorized to collect such wages for an amount double the sum due such employes at the time of such failure or refusal to pay the amount due, to be recovered by civil action in any court of competent jurisdiction within this state. (R. S. 1899, § 8791, amended, Laws 1903, p. 246.)

Sec. 8436. Miners' and employes' lien. All miners and other employes engaged in the work of developing and opening up coal mines, the sinking of shafts, the construction of slopes or drifts, the driving of entries, mining coal, and for all other labor performed in and about coal mines, shall have, as security for such work performed a lien upon all the property of the person, owner, agent, firm, or corporation owning, constructing or operating such mine or mines, used in construction or operation thereof, including real estate, building, machinery, pit cars, tracks, mules, scales, and all other personal property, to satisfy in full the amount due for such labor performed; the same to be enforced and secured upon the same general terms and after the manner of procedure in granting mechanics' liens. (R. S. 1899, § 8792.)

Sec. 8437. Miners not to be worked more than eight hours in a day.—It shall be unlawful for any person or corporation engaged in mining for minerals, coal or any valuable substance, or mak-

ing excavations beneath the surface of the earth while searching for minerals, coal or any valuable substance, to work their hands or employes at such labor or industry longer than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day for all laborers or employes engaged in the kind of labor or industry aforesaid. (R. S. 1899, § 8793, amended, Laws 1901, p. 211.)

Sec. 8438. **Penalty.**—Any person or persons or corporation who shall violate any of the provisions of the preceding section shall on conviction, be fined in a sum not less than twenty-five nor more than five hundred dollars. (R. S. 1899, § 8794, amended, Laws 1901, p. 211.)

Sec. 8439. **Miners to be brought to surface for meals.**—On and after the passage and taking effect of this section, all owners, lessees and operators of any mine in this state, the work of which is located below the surface of the ground, entrance to which is had by any shaft, cut or tunnel, shall allow the laborers and miners in their several mines to come to the surface of the ground for the purpose of eating their noonday meal or any other meal for which, under the rules of any mine a time is set apart; and that at least one hour shall be allowed any miner or laborer for that purpose, and for rest after he reaches the surface of the

ground, and before re-entering into any mine where he or she may be engaged as laborer or miner. Also, that the owner, lessee or operator of any mine in this state is hereby required to run his cage or hoisting apparatus to the surface of the ground for the purpose of carrying any such miner or laborer, who may be going to or returning from any such aforementioned meal and rest, free of cost to any such miner or laborer. (R. S. 1899, § 8795.)

Sec. 8440. Violation of preceding section—penalty.—Any owner, lessee or operator of any mine in this state who shall fail or refuse to carry out any of the provisions of section 8439 of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than one dollar nor more than twenty-five dollars; and each failure or refusal shall constitute a separate offense. (R. S. 1899, § 8796.)

ARTICLE II.

Inspection of Mines and Safety of Miners.

Sec. 8441. Maps of mines to be prepared, etc.—The owner, agent or operator of each and every mine in this state, employing ten or more men, shall make or cause to be made, at the discretion of

the inspector or other person acting in that capacity, an accurate map or plan of the workings of such mine and each and every vein thereof, showing the general inclination of the strata, together with any material deflections in the said workings and the boundary lines of said mine, and deposit a true copy of said map or plan with the clerk of the county court of each county wherein may be located the said mine; which said map or plan shall be so filed or deposited within three months after the time when this article shall take effect, and a copy of such map or plan shall also be kept for inspection at the office of the said mine; and during the month of January of each and every year after this article shall have taken effect, the said owner, agent or operator shall furnish the inspector and the clerk of the county court as aforesaid with a statement, and a further map or plan of the progress of the workings of such mine, continued from the last report to the end of the month of December next preceding, and the inspector shall correct his map or plan of said workings in accordance with the statement and map or plan thus furnished; and when any mine is worked out or abandoned, that fact shall be reported to the inspector, and the map or plan of such mine in the office of the clerk of the county court shall be carefully corrected and verified. (R. S. 1899, § 8797.)

Sec. 8442. Inspector to make map if owner fails—cost.—Whenever the owner, agent or operator of any mine shall neglect, fail or refuse to furnish the said inspector and clerk as aforesaid with a statement, the map or plan or addition thereto, as provided in section 8441 of this article, at the times and in the manner therein provided, the said inspector is hereby authorized to cause an accurate map or plan of the workings of such mine to be made at the expense of the said owner, agent or operator, and the cost thereof may be recovered by law from said owner, agent or operator, in the same manner as other debts, by suit in the name of the inspector and for his use. (R. S. 1899, § 8798.)

Sec. 8443. Escapement shafts, how constructed, etc.—It is unlawful for any owner, agent or operator of any coal mine worked by shaft to employ or permit any person to work therein unless there are to every seam of coal worked in each mine at least two separate outlets, separated by natural strata of not less than three hundred feet in breadth, by which shafts or outlets distinct means of ingress and egress are always available to the persons employed in the mine; but it is not necessary for the two outlets to belong to the same mine if the persons employed therein have safe, ready and available means of ingress and egress by not less than two openings; the communication or roadway be-

tween the two openings, or the two openings furnished by a connection between two distinct mines, shall at all times be kept clean and of such width and height as to make the same safe and available for a speedy exit in case of accident. The escapement shaft shall be fitted with safe and available appliances by which the persons employed in the mine may readily escape in case an accident occurs deranging the hoisting machinery at the main outlets, and such means or appliances for escape shall always be kept in a safe condition, and in no case shall an air shaft with a ventilating furnace at the bottom be construed to be an escapement shaft within the meaning of this section. The cage or cages and other means of egress shall at all times be available for the persons employed when there is no second outlet. To all other coal mines, whether slopes or drifts, two such openings or outlets must be provided within twelve months after shipments of coal have commenced from such mine, and in case such outlets are not provided as herein stipulated, it shall not be lawful for the owner, agent or operator of such slope or drift to permit more than five persons to work therein at any one time. (R. S. 1899, § 8799.)

Sec. 8444. Violation of preceding section—penalty.—Any owner, agent or operator of a coal mine in this state violating the provisions of the preceding

section shall be deemed guilty of a misdemeanor, and for each offense, on conviction, shall be fined not less than fifty or more than two hundred dollars, or by imprisonment in the county jail not less than three or more than twelve months, or by both such fine and imprisonment. (R. S. 1899, § 8800.)

Sec. 8445. **Ventilation—fire-damp, etc.**

The owner, agent or operator of every coal mine, whether operated by shaft, slope or drift, shall provide and maintain for every such mine a good and sufficient amount of ventilation for such men and animals as may be employed therein, the amount of air in circulation to be in no case less than one hundred cubic feet for each man, and six hundred cubic feet for each animal, per minute, measured at the foot of the down-cast, and the same to be increased at the discretion of the inspector according to the character and extent of the workings, or to the amount of powder used in blasting; and said volume of air shall be forced and circulated to the face of every working place throughout the mine, so that such mine shall be free from standing powder-smoke and gases of every kind. All doors set on main entries for the purpose of conducting the ventilation shall be so constructed and hung as to close of themselves when opened, and shall be made sufficiently tight to effectually obstruct the air-currents. In all mines employing fifty

or more men, a boy or trapper shall be kept in attendance upon such doors, to see that they are kept securely closed, and the air-currents properly controlled. Whenever the inspector shall find men working without sufficient air, or under any unsafe conditions, he shall first give the operator a reasonable notice to rectify the same, and upon his refusal to do so, may himself order them out until said portions of said mine shall be put in proper condition. The ventilation required by this section may be produced by any suitable appliances, but in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works, by lining the upcast with incombustible material for a sufficient distance up from said furnace. (R. S. 1899, § 8801.)

Sec. 8446. Ventilation—separate air-currents required.—Every owner, agent or operator of every coal mine, whether operated by shaft, slope or drift, employing more than fifty persons in such mine, shall on and after the first day of September, 1905, in providing and maintaining the ventilation required by section 8445, split the volume of air circulating in such mine into separate currents so that not more than fifty persons working in such mine shall be supplied by the same current of air. (Laws 1905, p. 237.)

Sec. 8447. Certain mines to be examined daily.—All mines generating ex-

plosive gas in which men are employed shall be examined every morning by a practical and duly authorized agent of the proprietor, to determine whether there are any dangerous accumulations of gas, or lack of proper ventilation, or obstructions to roadways, or any other dangerous conditions; and no person shall be allowed to enter the mine until the examiner shall have reported all of the conditions safe for beginning work. Such examiner shall make a daily record of the condition of the mine, in a book kept for that purpose, which shall be open at all times to the examination of the inspector. The currents of air in mines shall be so split as to give a separate current to at least every fifty men at work, and the mine inspector shall have discretion to order a separate current for a smaller number of men, if special conditions render it necessary. (R. S. 1899, § 8802, amended, Laws 1907, p. 362.)

Sec. 8448. **Experienced persons to handle explosives, etc.**—It shall be unlawful for any operator or agent of a coal mine to employ persons underground whose duties may involve contact with inflammable gases, or the handling of explosives, who have not had experience in such duties, unless all such employes are placed under the immediate charge and control of some competent and experienced miner, so as to secure the safety of other persons

employed in the same mine. (R. S. 1899, § 8803.)

Sec. 8449. **Blasting holes to be charged, how.**—It shall be unlawful for coal miners in any mine to charge a blasting hole with loose powder, or otherwise than with a properly constructed cartridge; and in dry and dusty mines, it shall be unlawful to load cartridges in the mines except with a powder-can constructed for the purpose. (R. S. 1899, § 8804.)

Sec. 8450. **Traveling ways through shafts, etc.**—The bottom of every shaft shall be supplied with a traveling way, to enable men to pass from one side of the shaft to the other, and without passing under or over the cages. All sumps shall be securely planked over so as to prevent accidents to men. (R. S. 1899, § 8805.)

Sec. 8451. **Penalty for offenses.**—Every owner, agent or operator of any coal mine in this state, employing five or more persons, violating any of the provisions of sections 8445 to 8450, inclusive, shall be deemed guilty of a misdemeanor, and on conviction shall be fined for each offense not less than fifty nor more than two hundred dollars, or by imprisonment in the county jail not less than three nor more than twelve months, or by both such fine and imprisonment. (R. S. 1899, § 8806.)

Sec. 8452. **Oils for illuminating purposes.**—Only a pure animal or vegetable

oil, or other oil as free from smoke as a pure animal or vegetable oil, and not the product or by-product of rosin, and which shall, on inspection, comply with the following test, shall be used for illuminating purposes in the mines of this state. All such oil must be tested at 60 degrees Fahrenheit. The specific gravity of the oil must not exceed 24 degrees Tagliabue. The test of the oil must be made in a glass jar one and five-tenths inches in diameter by seven inches in depth. If the oil to be tested is below 45 degrees Fahrenheit, in temperature, it must be heated until it reaches about 80 degrees Fahrenheit; and should the oil be above 45 degrees and below 60 degrees Fahrenheit, it must be raised to a temperature of about 70 degrees Fahrenheit, when, after being well shaken, it should be allowed to cool gradually to a temperature of 60 degrees Fahrenheit before finally being tested. In testing the gravity of the oil, the Tagliabue hydrometer must be, when possible, read from below, and the last line which appears under the surface of the oil shall be regarded as the true reading. In case the oil under test should be opaque or turbid, one-half of the capillary attraction shall be deemed and taken to be the true reading. Where the oil is tested under difficult circumstances, an allowance of one-half degree may be made for possible error in parallax, before condemning the oil for use

in the mine. All oil sold to be used for illuminating purposes in the coal mines of this state shall be contained in barrels or packages, branded conspicuously with the name of the dealer, the specific gravity of the oil, and the date of shipment. (R. S. 1899, § 8807.)

Sec. 8453. **Penalty.**—Any person or persons, firm or corporation which ships any oil contained in any barrel or barrels, package or packages, which are not branded as prescribed in section 8452, said oil to be used for illuminating purposes in coal or other mines, and any person or persons, firm or corporation which sells any oil other than that prescribed in section 8452, to be used for illuminating purposes in coal mines, and any person or persons, firm or corporation having in charge the operation or running of any coal mine, which, in a mine under his or its charge, uses or permits the use of any oil other than that prescribed in section 8452, and any miner or mine employe who uses, with a knowledge of its character, in any coal mine in this state, any other oil than that prescribed in section 8452, shall be deemed guilty of a misdemeanor, and on conviction shall be fined for each offense not less than fifty nor more than two hundred dollars, or by imprisonment in the county jail not less than three nor more than twelve months, or by both such fine and imprisonment. (R. S. 1899, § 8808.)

Sec. 8454. Inspector to inspect oils.—

It shall be the duty of the state coal mine inspector, in person or by some person designated by him, to inspect oils being used by miners to determine if the grade is of the standard described in section 8452 of this article—said inspection to be made at the pleasure of the coal mine inspector, or a person designated by him. Should he find the grade of oil used below the grade fixed in section 8452, he shall notify the owner, agent or operator of the mine, and also notify the miners using the oil, that the quality is inferior, and if change is not made as soon as practical, he shall notify the prosecuting attorney of the county in which the mine is located, giving him all the facts, and the prosecuting attorney shall forthwith proceed to enforce the provisions of the two preceding sections. (R. S. 1899, § 8809.)

Sec. 8455. Bore-holes.—The owner, agent or operator shall provide that bore-holes shall be kept twenty feet in advance of the face of each and every working place, and, if necessary, on both sides, when driving toward an abandoned mine and part of a mine suspected to contain inflammable gases or to be inundated with water. (R. S. 1899, § 8810.)

Sec. 8456. Signaling—hoisting—certain miners not to work, etc.—The owner, agent or operator of every mine operated by shaft shall provide suitable

means of signaling between the bottom and the top thereof, and shall also provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe, as far as possible, persons descending into and ascending out of said shaft; and such cage shall be furnished with guides to conduct it on slides through such shaft, with a sufficient break on every drum to prevent accident in case of the giving out or breaking of machinery; and such cage shall be furnished with spring catches, intended and provided, as far as possible, to prevent the consequences of cable breaking or the loosening or disconnecting of the machinery; and no props or rails shall be lowered in a cage while men are descending into or ascending out of said mine: *Provided*, that the provisions of this section in relation to covering cages with boiler iron shall not apply to coal mines less than one hundred feet in depth, where the coal is raised by horse power. No male person under the age of fourteen years, or female of any age, shall be permitted to enter any mine to work therein; nor shall any boy under the age of sixteen years, unless he can read or write, be allowed to work in any mine. Any party or person neglecting or refusing to perform the duties required to be performed by the provisions of this article shall be deemed guilty of a misdemeanor, and punished by a fine in the discretion

of the court trying the same, subject, however, to the limitations as provided by section 8463 of this article. (R. S. 1899, § 8811, amended, Laws 1905, p. 237.)

Sec. 8457. Person in control of hoisting machinery, etc.—No owner, agent or operator of any mine operated by shaft or slope shall place in charge of any engine whereby men are lowered into or hoisted out of the mines any but an experienced, competent and sober person not under eighteen years of age; nor shall such engineer be permitted to operate the hoisting machinery unless he be located in such close proximity to the engine and drum as will enable him to continuously have supervision and control of both engine and drum; and no person shall be permitted to ride upon a loaded cage or wagon used for hoisting purposes in any shaft or slope, and in no case shall more than twelve persons ride on any cage or car at any one time; nor shall any coal be hoisted out of any mine while persons are descending into such mine, and the number of persons to ascend out of or descend into any mine on one cage shall be determined by the inspector; the maximum number so fixed shall not be less than four nor more than twelve, nor shall be lowered or hoisted more rapidly than five hundred feet to the minute. (R. S. 1899, § 8812.)

Sec. 8458. Semi-weekly inspection of hoisting equipment—record of same.—

Every owner or operator, or the agent of such owner or operator of any coal mine in this state, who shall employ twenty-five or more miners or mine laborers, where any mechanical device is or shall be used for the lowering or hoisting of men into or out of such mine, shall have some experienced and practical person to inspect all ropes, cages, safety-catches, shive-wheels and drum brakes at least twice in each week while such mine shall be in operation. And every such owner or operator, or the agent of such owner or operator of such mine, is hereby required to furnish a book of suitable kind in which the results of each inspection are hereby required to be entered and recorded by the person making such inspection as soon and as often as the same shall be made, always reciting in such book also the day and date of such inspection; and such book shall be kept at such mine, and shall, on all working days, be open for the information of all employes of such mine. (Laws 1909, p. 695.)

Sec. 8459. **Penalty.**—Every owner or operator, or the agent of such owner or operator of any coal mine in this state of the kind mentioned in the next preceding section, who shall fail to comply with the provisions of said section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one

hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days, or by both such fine and imprisonment, for each and every separate offense. And every failure to have made such inspection and to have entered and recorded the results of such inspection as provided in section 8458 on any day when the same should have been done, shall constitute a separate offense. (Laws 1909, p. 695.)

Sec. 8460. Lowering and hoisting miners.—The owner, agent or operator of all coal mines employing twenty-five or more men, shall cause a competent person to be stationed at the top of the shaft, and a competent person to be stationed at the bottom of the shaft, whose duties shall be to answer all signals for the lowering or hoisting of men in the shaft, and to keep watch over, and control of, such signals while men are being lowered or hoisted in the shaft; the persons so appointed to look after said signals shall be at their posts of duty at least thirty minutes before the hoisting of coal has commenced in the morning, and shall remain after the hoisting of coal has ceased in the evening at least thirty minutes. Whenever eight persons shall present themselves at the bottom of the shaft and after having finished their day's work, or otherwise having been prevented from working, an empty cage shall be furnished the same on which to ascend.

And any owner, agent or operator of coal mines in this state, who shall knowingly violate any provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars, nor more than three hundred dollars for each offense, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment. (R. S. 1899, § 8813, amended, Laws 1909, p. 696.)

Sec. 846I. Boilers—fencing entrances—signals, etc.—All boilers used in generating steam in and about coal mines shall be kept in good order, and the owner, agent or operator, as aforesaid, shall have the said boiler examined and inspected by hydrostatic pressure and warm water, by a competent boiler-maker or other qualified person, as often as once every six months, and the result of every such examination shall be certified in writing to the mine inspector; and the top of each and every shaft, and the entrance of each and every immediate working vein, shall be securely fenced by gates properly covering and protecting such shaft and entrance thereto; and the entrance to every abandoned slope, air or other shaft, shall be securely fenced off; and every steam boiler shall be provided with a proper steam gauge, water gauge and safety valve, and all underground self-acting

or engine planes or gangways on which coal cars are drawn and persons travel, shall be provided with some proper means of signaling between the stepping places and the end of said planes or gangways, and sufficient places of refuge at the sides of such planes or gangways shall be provided at intervals of not more than twenty feet apart. (R. S. 1899, § 8814.)

Sec. 8462. **Accidents—duty and power of inspector, etc.**—Whenever loss of life or serious personal injury shall occur by reason of any explosion or of any accident whatsoever, in or about any mine, it shall be the duty of the person having charge of such mine to report the facts thereof without delay to the state mine inspector, and if any person is killed thereby, to notify the coroner of the county also, or in his absence or inability to act, any justice of the peace of said county; and the said inspector shall, if he deem it necessary from the facts reported, immediately go to the scene of said accident and make suggestions and render such assistance as he may deem necessary for the safety of the men; and the inspector shall investigate and ascertain the cause of such explosion or accident and make a report thereof, which he shall preserve with the other records of his office; and to enable him to make such investigation, he shall have the power to take depositions, compel the attendance of

witnesses and administer oaths or affirmations to them; and the cost of such investigation shall be paid by the county court of the county in which such accident shall have occurred, in the same manner as costs of coroners' inquests are now paid. And a failure on the part of the person having charge of any mine in which any such accident may have occurred to give notice to the inspector or coroner, as provided for in this section, shall subject such person to a fine of not less than one hundred nor more than three hundred dollars, to be recovered of him in the name of the state of Missouri, before any justice of the peace of such county wherein the mine is situate and the accident occurred; and such fine, when collected, shall be paid into the county treasury for the use and benefit of said county. (R. S. 1899, § 8815.)

Sec. 8463. **Fines, how recovered.**—In all cases in which punishment is not provided for by fine under this article, for a breach of any of its provisions, the fine for the first offense shall not be less than fifty nor more than two hundred dollars, and for the second offense not less than two hundred nor more than five hundred dollars, to be recovered in any court of the state having competent jurisdiction. (R. S. 1899, § 8816.)

Sec. 8464. **Bureau of mines established, etc.**—There is hereby created a department, to be known as the bureau

of mines, mining and mine inspection, with its office located at the state capitol. The governor shall, for the inspection of coal mines, appoint an inspector and one assistant to the same, both of whom shall have been practical miners in coal mines. For lead, zinc and mines other than coal mines, the governor shall appoint two inspectors, both of whom shall have had practical experience in lead and zinc mining; one of said inspectors shall be appointed to serve in the western lead and zinc district, and the other inspector in the eastern lead and zinc district. Said district in the lead and zinc field to be divided from north to south through the state by a line which will border the western boundary of Cooper and Webster counties. Neither of the above-named inspectors shall be interested in any mine, and each shall receive a salary of eighteen hundred dollars per annum, and there shall also be allowed and paid out of the general revenue fund the actual traveling expenses of the inspectors. The inspectors so appointed shall have authority to appoint a secretary of the bureau of mines, mining and mine inspection, who, in addition to his other qualifications, shall be a competent draughtsman, and receive a salary of eighteen hundred dollars per annum. (R. S. 1899, § 8817, amended, Laws, 1903, p. 245, Laws 1907, p. 365.)

Sec. 8465. **Health and safety of miners—report to the governor—report of operators to inspectors.**—The inspectors provided for in this article shall see that every necessary precaution is taken to secure the health and safety of the workmen employed in any of the mines in the state, that the provisions and requirements provided for in this article be faithfully observed and obeyed, and the penalties of the law enforced. They shall also collect and tabulate in their report, to be made to the governor on the 15th day of April of each year, the extent of the workable mining lands in the state by counties; also, the manner of mining, whether by shaft, slope, drift or otherwise, the number of mines in operation, the number of men employed therein, the amount of capital invested and the amount and value of all mine products. And in order that the provisions of this section may be faithfully enforced, it shall be the duty of every mine owner, operator or lessee doing business of a mining nature, embracing lead, zinc, coal, copper, iron or other minerals within this state, to report to the inspectors within 20 days following the 1st day of January of each year, the name of the person, firm, corporation or company doing a mining business, where the mines are located, the number of acres owned or leased of minable lands, the capital invested in lands and plant, the number of shafts, drifts, slopes or

open cuts operated, the number of men employed in and about the mines, average wages paid employes, the amount of mineral produced, the average price received for said product and all such other information pertaining to mining as may be required by the inspectors; coal mine operators reporting to the coal mine inspector and the operators of all other mines to the inspector of lead, zinc and other mines upon blanks which the inspectors are hereby authorized to furnish for such purpose; it shall also be the duty of every mine owner or operator doing a mining business in this state, who sells or disposes of such mining property to another person, firm, company or corporation, to furnish to the purchaser or purchasers thereof, a certified statement of the amount and value of all mine products, the average number of men employed and the average wages paid, for that portion of the calendar year that such mining property has been operated; and such purchaser or purchasers shall preserve and incorporate the same in the annual report required under this act; it shall also be the duty of all operators to require of their sublessees a monthly statement of the average number of men employed each month and the average wages paid them, that correct accounting may be made of the same in the annual report required; it shall also be the duty of all persons, companies or corporations open-

ing up new mines or mining property to promptly report the same to the inspector. (R. S. 1899, § 8818, amended, Laws 1901, p. 212.)

Sec. 8466. Penalty for violation of preceding section.—When any owner, operator or lessee of any mine within this state shall fail or refuse to comply with the provisions of section 8465 of this article, such offender shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not less than one hundred dollars nor more than three hundred dollars for each offense, and the state mine inspector is hereby authorized to certify such failure or refusal to the county prosecuting attorney, in which county the offense was committed, whose duty it shall be to prosecute such offender or offenders. (Laws 1901, p. 212.)

Sec. 8467. Inspector may enter mines at any time, etc.—It shall be lawful for the inspector provided for in this article to enter, examine and inspect any and all mines and machinery belonging thereto, at all reasonable times, by day or by night, but so as not to obstruct or hinder the necessary workings of such mine, and the owner, agent or operator of every such mine is hereby required to furnish all necessary facilities for such entering, examination and inspection; and if the said owner, agent or operator aforesaid shall refuse to permit such inspection, or to furnish the necessary fa-

cilities for such entry, examination and inspection, the inspector shall file his affidavit setting forth such refusal before the judge of the circuit court in said county in which said mine is situated, either during the term of the court or during vacation, and obtain an order on such owner, agent or operator so refusing as aforesaid, commanding him to permit and furnish such facilities for the inspection of such mine, or to be adjudged to stand in contempt of court and punished accordingly; and if the said inspector shall, after examination of any mine and the works and machinery pertaining thereto, find the same to be worked contrary to the provisions of this article, or unsafe for the workmen therein employed, said inspector shall, through the circuit attorney of his county, or any attorney in case of his refusal to act, acting in the name and on behalf of the state, proceed against the owner, agent or operator of such mine, either separately or collectively, by injunction, without bond, after giving at least two days' notice to such owner, agent or operator; and said owner, agent or operator shall have the right to appear before the judge to whom application is made, who shall hear the same on affidavits and such other testimony as may be offered in support as well as in opposition thereto; and if sufficient cause appear, the court, or judge in vacation, by order, shall prohibit the fur-

ther working of any such mine in which persons may be unsafely employed contrary to the provisions of this article, until the same shall have been made safe and the requirements of this article shall have been complied with; and the court shall award such costs in the matter of said injunction as may be just; but any such proceedings so commenced shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this article. (R. S. 1899, § 8819.)

Sec. 8468. Inspectors to examine—safety of employes—powers of inspectors.—The state mine inspectors of lead mines, zinc mines and mines other than coal are hereby authorized, empowered and directed to thoroughly inspect all underground excavations in all lead mines, zinc mines and mines other than coal, as often as the inspector may deem proper after the passage and approval of this act, to ascertain the condition of said underground excavations with respect to the safety of all employes working in such underground excavations; and, if after such examination, the inspectors shall find that the safety of the employes engaged in working in such excavations is imperiled by reason of there being only one shaft or outlet by which a distinct means of ingress and egress is always available to such employes, it shall be the duty of such inspectors to immediately notify the

owner, agent or operator of such mine, in writing, specifying the particular underground excavation so found to be unsafe or dangerous, and direct the owner, agent or operator to, within thirty days after receiving such notice, commence to sink another shaft or outlet for such underground excavation, at some point to be agreed to by such inspector, and prosecute the sinking of such shaft or outlet with all due diligence until the same is completed. And the state mine inspectors aforesaid shall have power, if they deem it for the safety of the employes, to order all employes engaged in working in such underground excavations so found to be unsafe or dangerous to quit work until such other shaft or outlet shall have been completed, or until further notified by such inspector. (Laws 1907, p. 364.)

Sec. 8469. Inspection—ventilation.—The state mine inspectors for lead mines, zinc mines and other mines other than coal are hereby authorized, empowered and directed to thoroughly inspect all underground excavations in all lead mines, zinc mines and mines other than coal, as often as the inspector may deem proper, from and after the passage and approval of this act, and ascertain the condition of such underground excavations with respect to the health of employes engaged in working in such underground excavations; and, if after such examination, the inspector shall find that

the health of the employes is impaired by reason of there not being sufficient circulation of air or ventilaton for such employes, it shall be the duty of such inspector to immediately notify the owner, agent or operator of such mine, in writing, specifying the underground excavation so found to be unhealthful, and direct such owner, agent or operator of such mine to, within fifteen days after receiving such written notice, commence to drill a sufficient number of air holes for such underground excavation, at some point or points to be agreed to by such inspectors, and prosecute the drilling of such air hole or holes with all due diligence until they are completed. And the inspectors shall have power, if they deem it for the interest of the employes, to order all employes engaged in working in such underground excavations so affected by said notice to quit work until such air hole or holes shall have been completed, or until further notified by such inspector. (Laws 1907, p. 364.)

Sec. 8470. **Penalty.**—Every person, owner, agent or operator of any lead mines, zinc mines or mines other than coal, who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a term not exceeding six months, or by a fine not less than one hundred dollars for each

offense, or by both such fine and imprisonment. (Laws 1907, p. 364.)

Sec. 8471. **In case of injury or death, right of action.**—For any injury to persons or property occasioned by any violation of this article or failure to comply with any of its provisions, a right of action shall accrue to the party injured for any direct damages sustained thereby; and in case of loss of life by reason of such violation or failure as aforesaid, a right of action shall accrue to the widow of the person so killed, his lineal heirs or adopted children, or to any person or persons who were, before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages sustained by reason of such loss of life or lives: *Provided*, that all suits brought under this article shall be commenced within one year after any cause of action shall have accrued under this article and not afterward; *and provided further*, that any person entitled to sue under this section for loss of life or lives may recover any sum not exceeding ten thousand dollars. (R. S. 1899, § 8820.)

Sec. 8472. **Rules of working mines—penalty.**—Any miner, workmen or other person who shall knowingly injure any water-gauge, barometer, air-course or brattice, or shall obstruct or throw open any airways, or carry any lighted lamps or matches into places that are worked by the light of safety lamps, or shall

handle or disturb any part of the machinery of the hoisting engine, or open a door to a mine and not have the same closed again, whereby danger is produced, either to the mine or those at work therein, or who shall enter into any part of the mine against caution, or who shall disobey any order given in pursuance of this article, or who shall do any willful act whereby the lives and health of persons working in the mine, or the security of the mine or miners, or the machinery thereof, is endangered, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine or imprisonment, at the discretion of the court. (R. S. 1899, § 8821.)

Sec. 8473. **Prop timbers.**—The owner, agent or operator of any mine shall keep a sufficient supply of timber, when required to be used as props, so that the workmen may at all times be able to properly secure the said workings from caving in, and it shall be the duty of the owner, agent or operator to send down all such props when required. (R. S. 1899, § 8822.)

Sec. 8474. **Method of working on the room and pillar plan.**—The owner, agent or operator of any coal mine in this state, employing five or more persons, if said mine is worked on the room and pillar plan, shall cause the work in such mine to be prosecuted in the following manner, and none other, to-wit: Two

entries must be driven parallel for the ingress and egress of the air, and cross-cuts must be made at intervals not to exceed fifty feet apart, and no rooms, entries or other openings shall be allowed to start inside of the last cross-cut until the next one be made; and further, that it shall be unlawful for any owner, operator or agent for any person, persons, corporation or company to permit the mouth or mouths of worked out or abandoned rooms or entries in any coal mine to remain open for a period exceeding one month from the date of abandonment of any such room, rooms, entry or entries. All such abandoned work as designated must be securely sealed in such manner as will effectually prevent the escape of all gases or other impurities calculated to vitiate the ventilative current of a mine: *Provided*, that the sealing of rooms and entries herein provided for shall only be required in such mines and places therein as the mine inspector shall in his discretion deem necessary for insuring the health and safety of workmen therein. (R. S. 1899, § 8823, amended, Laws 1907, p. 363.)

Sec. 8475. **Penalty.**—Any owner, agent or operator in charge of any coal mine worked on the room and pillar plan failing to comply with the provisions of section 8474 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less

than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than six months nor more than one year, or by both such fine and imprisonment; and every day that the mine is operated contrary to the provisions of section 8474, after the owner, agent or operator in charge thereof shall have been convicted for a first offense under section 8474, shall be and constitute a separate and distinct subsequent offense, and shall be punished as such. (R. S. 1899, § 8824.)

Sec. 8476. Notice to be given by inspector.—The state coal mine inspector shall, after sections 8474 to 8476, inclusive, become a law, give notice, in writing, to the owner, agent or operator in charge of each coal mine in this state now being worked on the room and pillar plan, to conform the working of such mine to the requirements hereinbefore set out and prescribed; and such owner, agent or operator shall have thirty days in which to comply before being liable to the penalty provided herein. (R. S. 1899, § 8825.)

Sec. 8477. Explosives to be kept in a strong box—shot-firers to be employed. All owners, agents or operators of coal mines shall require of all miners or other persons employed in and about a mine, using gun or blasting powder or other explosives, to have and keep a strong box in which all surplus gun or blasting powder or other explosives in the mine shall be kept, excepting so

much as is necessary for immediate use. These boxes shall be kept locked and not opened unless it be to put in or take out powder. Nor must these strong (or powder) boxes be kept nearer than one hundred feet to the place of blasting. And in all dry and dusty coal mines discharging light carbonated hydrogen gas, or in mines where the coal is blasted off of the solid, shot-firers must be employed by the operator of said mine or mines, to fire all shots after the employes and other persons have retired from the mine. And all shots prepared by the miner for the extraction of coal from off of the solid, must be so placed, drilled and charged, that the same, when fired, shall perform safely the duty required of such shots; but if the shot-firers find or discover that a drill hole is gripping too much or that it is drilled too much into (what the miners term) "the tight," and as may in the judgment of the shot-firers, prove a windy, blown-out or otherwise dangerous shot, said shot-firers shall there and then condemn such shot as too dangerous to fire and pass the same without firing it. It shall also be the duty of the shot-firers to notify the mine foreman as soon as practicable, when a shot is condemned, who shall in turn attract the attention of the miner or miners responsible for the preparation of said condemned shot and said miner or miners shall immediately after returning to work provide the necessary remedy to render the said condemned

shot harmless. (R. S. 1899, § 8826, amended, Laws 1901, p. 214, Laws 1903, p. 247.)

Sec. 8478. Penalty.—Any agent, owner or operator of any coal mine in this state violating the provisions of the preceding section shall be deemed guilty of a misdemeanor, and for each offense on conviction shall be fined not less than one hundred dollars nor more than two hundred and fifty dollars, or by imprisonment in the county jail not less than six months nor more than one year, or by both such fine and imprisonment, proceedings to be instituted in any court having competent jurisdiction. (R. S. 1899, § 8827, amended, Laws 1901, p. 214, Laws 1903, p. 247.)

Sec. 8479. Qualification of miners.—Any person desiring to perform the work of a coal miner and for himself to conduct room, entry or other underground mining in coal mines of this state, shall, before being permitted to engage in such work, produce evidence of a satisfactory nature that he has for one year worked in coal mines with or as a practical miner; such applicant to furnish evidence of his experience and qualifications to the coal mine inspector, or to the person designated by said inspector to pass upon the competency of such applicant, and until said applicant shall have fully satisfied the coal mine inspector or the party designated by the said inspector at the mine, wherein such employment is sought of his fitness to

perform the duties as above mentioned, he shall not be permitted to mine coal unless associated with a practical miner for such length of time as will qualify said applicant to safely for himself and others perform underground work, and any owner, agent or operator of any coal mine in this state who shall knowingly violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars for each and every offense, or by imprisonment in the county jail for a period of not less than thirty days nor more than sixty days, or by both such fine and imprisonment, proceedings to be instituted in any court having competent jurisdiction. (R. S. 1899, § 8828, amended, Laws 1901, p. 215.)

ARTICLE III.

State Mining Board—Powers and Duties of.

(Secs. 8480-8498, both inclusive.)

Note—The law creating a State Board of Coal Mining is omitted, for the reason that same is inoperative, no board having been appointed since the enactment of the law, and no appropriation to defray expenses of board was made.

DAMAGES: Mining—Fellow Servants.

Sec. 5440. **Mine operator liable for acts of agents and servants.**—That every

person, company or corporation operating a mine or mines in this state producing lead, zinc, coal or other valuable minerals, shall be liable for all damages sustained by any agent or servant thereof while engaged in operating such mine or mines, by reason of the negligence of any other agent or servant thereof: *Provided*, that it may be shown in defense that the person injured was guilty of negligence contributing as a proximate cause to produce the injury. (Laws 1907, p. 104.)

Sec. 5441. **Certain persons declared fellow servants.**—That all persons engaged in the service of any such person, company or corporation doing business in this state, who are entrusted by such person, company or corporation with the authority of superintendence, control or command of other persons in the employ or service of such person, company or corporation, or with authority to direct any other servant in the performance of any duty of such servant, or with the duty of inspection or other duty owing by the master to the servant, are vice-principals of such person, company or corporation, and are not fellow-servants with such employes. (Laws 1907, p. 104.)

Sec. 5442. **Fellow servants defined.**—That all persons who are engaged in the common service of such person, company or corporation operating a mine or mines, and while so engaged are work-

ing together at the same time and place to a common purpose of the same grade, neither of such persons being entrusted by such person, company or corporation with any superintendence or control over their fellow-employees, are fellow-servants with each other. (Laws 1907, p. 104.)

Sec. 5443. **Certain contracts declared void.**—No contracts made between any person, company or corporation so operating such mine or mines and their agents or servants, based upon the contingency of the injury or death to any such agent or servant, limiting the liability of the employer for any damages under the provisions of this act, shall be valid or binding, but all such contracts or agreements shall be null and void. (Laws 1907, p. 104.)

Sec. 5444. **Certain employes exempt from provisions of act.**—Nothing in this act shall be so construed as applying to or including the operation, construction or repairing of concentrating mills, flumes or tramways wholly above ground. (Laws 1907, p. 104.)

Sec. 5445. **Survival of right of action, in favor of whom, and when.**—Whenever any cause of action shall accrue to any agent or servant of any person, company or corporation under an act entitled "An act to define the liabilities of mine operators in relation to damages sustained by their employes, and to define who are fellow-servants and who

are not fellow-servants, and to prohibit contracts limiting liability under this act," approved May 10, 1907, and death shall ensue to such agent or servant by reason of the negligence provided for in said act, the cause of action shall survive in favor of the widow and minor children of the deceased: *Provided*, that action therefor shall be brought by the widow within six months after such death, and if she shall fail to bring such action, then within twelve months after such death by such minor children; *and provided, further*, that recovery in case of such death shall not exceed the sum of ten thousand dollars. (Laws 1907, p. 104, amended, Laws 1909, p. 463.)

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